

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PROPOSED AMENDMENT
ARM 32.6.712 pertaining to food)	
safety and inspection service (meat,)	NO PUBLIC HEARING
poultry))	CONTEMPLATED

TO: All Concerned Persons

1. On February 22, 2016, the Department of Livestock (department) proposes to amend the above-stated rule.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m. on February 12, 2016, to advise us of the nature of the accommodation that you need. Please contact the Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9321; TTD number: 1 (800) 253-4091; fax: (406) 444-1929; e-mail: MDOLcomments@mt.gov.

3. The department proposes to amend the following rule as follows, new matter underlined, deleted matter interlined:

32.6.712 FOOD SAFETY AND INSPECTION SERVICE (MEAT, POULTRY)

(1) remains the same.

(2) The Department of Livestock incorporates by reference the following as effective September 17, 2015:

(a) 9 CFR 430.4.

(2) and (3) remain the same but are renumbered (3) and (4).

AUTH: 81-2-102, 81-9-220, MCA

IMP: 81-2-102, 81-9-217, 81-9-220, MCA

REASON: Montana Meat and Poultry Inspection has adopted 9 CFR 430.4 by reference in ARM 32.6.712. On June 19, 2015, USDA FSIS published a federal register notice regarding a change in 9 CFR 430.4. Consequently, to maintain an "at least equal to" status, Montana must change ARM 32.6.712 to reflect USDA FSIS changes to the CFR.

The rule change includes two components. First, the new rule clarifies that establishments must not release into commerce products that contain *Listeria Monocytogenes* or that have been in contact with a food contact surface that contains *Listeria Monocytogenes* without first reworking the product using a process that is destructive of *Listeria Monocytogenes*.

Second, because states are using the Public Health Information System (PHIS) to gather production volume data, FSIS removed a requirement to report production volume and related data. According to the federal register publication, these changes were effective on September 17, 2015.

4. Concerned persons may submit their data, views, or arguments in writing concerning the proposed action to the Executive Officer, Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to MDOLcomments@mt.gov to be received no later than 5:00 p.m., February 19, 2016.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments they have to the same address as above. The written request for hearing must be received no later than 5:00 p.m., February 19, 2016.

6. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the establishments who are directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a public hearing will be held at a later date. Notice of the public hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 4 establishments, based upon there being approximately 38 establishments relating to animal feeding, slaughter, and disposal.

7. The Department of Livestock maintains lists of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

BY: /s/ Martin Zaluski
Martin Zaluski
Interim Executive Officer
Board of Livestock
Department of Livestock

BY: /s/ Cinda Young-Eichenfels
Cinda Young-Eichenfels
Rule Reviewer

Certified to the Secretary of State January 11, 2016.